



701 PENNSYLVANIA AVE NW • SUITE 750 • WASHINGTON, DC 20004

March 17, 2011

The Honorable Kevin Brady
Committee on Ways & Means
Subcommittee on Trade
United States House of Representatives
Washington, D.C. 20515

WRITTEN STATEMENT IN SUPPORT OF THE FREE TRADE AGREEMENT WITH THE REPUBLIC OF COLOMBIA

Whirlpool Corporation is the world's leading manufacturer and marketer of home appliances, with more than 71,000 employees and 67 manufacturing and technology centers around the world. This year, Whirlpool Corporation is marking its 100th year in business. We are a global company, and we are extremely proud of our U.S. heritage. We are committed to the U.S. market, to U.S. jobs, and to manufacturing in the United States. In fact, we're investing \$1 billion dollars in just capital expenses right here at home in the United States from 2010 -2014. In the United States, Whirlpool Corporation has nine major manufacturing divisions and over 23,500 active employees.

Whirlpool Corporation supports the proven mechanisms of the WTO, for expanding global free trade, for completion of the Doha Round, and support for all free trade agreements both those that are in effect and those that are still pending before the U.S. Congress. We believe in fair trade and support all trade agreements to open foreign markets. Free, fair trade is good for our business, our employees, our industry, and our customers and consumers. At Whirlpool Corporation, we welcome the challenge to compete globally with foreign suppliers if subject to the same rule of law. This is made possible by U.S. trade agreements that level the terms of trade. A significant percentage of our U.S. export production is product that is shipped to countries in which we have free trade agreements like Canada and Mexico.

Whirlpool Corporation strongly supports passage of the United States – Colombia Trade Promotion Agreement (CTPA) as amended in the May 10, 2007 Congressional-Executive Agreement on Trade Policy because it removes barriers to trade that disadvantage U.S. companies that export to Colombia. **Whirlpool Corporation exports of U.S. manufactured products to Colombia are disadvantaged by preferential arrangements within the hemisphere that foreign appliance manufacturers take advantage of by producing product in Mexico to export within Latin America.**

BENEFITS OF THE UNITED STATES - COLOMBIA TRADE PROMOTION AGREEMENT TO WHIRLPOOL CORPORATION

Since 1991, Colombia has enjoyed duty-free access to the U.S. market for most goods and services as a result of the Andean Trade Preference Act, and subsequently by the Andean Trade Promotion and Drug Eradication Act, which unfortunately expired in February, 2011. The positive effects in Colombia of these laws were significant and they led to numerous political and economic reforms that have helped Colombia's gross domestic product grow significantly. The United States – Colombia Trade Promotion Agreement has the potential to spur even more development and growth in Colombia's economy by encouraging trade, creating jobs, and attracting investment. The economic prosperity that has typically accompanied expanded trade helps generate the national resources needed to address other issues including environmental protection and labor standards. **In 2010, Whirlpool Corporation exports of U.S. manufactured appliances to Colombia totaled \$19.6 million dollars; however, those exports have been declining over the last four years as the United States continues to be at a competitive disadvantage to Colombia's other trading partners.**

The Colombian market represents nearly six times the value of Whirlpool Corporation's U.S. exports to South Korea, another market with a pending trade deal before the U.S. Congress. Whirlpool Corporation's U.S. exports to Colombia come from many of our U.S. manufacturing operations, including those in Arkansas, Iowa, Ohio, Oklahoma, and Tennessee. Trade with Colombia is sustaining both union and non-union jobs at our manufacturing facilities here in the United States. Colombia is one of the most profitable and important countries we sell into outside of the United States. In fact, in terms of relative Latin America market importance to Whirlpool Corporation, Colombia trails only Brazil. Colombian consumers have demonstrated a tremendous appetite for our U.S. major appliance brands and the product configurations we build in America. **Colombia is a very large growth opportunity for Whirlpool Corporation and we intend to maintain and increase our presence in Colombia. The percentage of households classified as middle class continues to increase every year and many of these households are first time buyers of our products.** An increase in exports to Colombia will help us further invest in U.S. jobs to support our global operations.

Whirlpool Colombia serves as a hub for our Andean and Central America Operations. The United States – Colombia Trade Promotion Agreement will provide new market opportunities for U.S. manufacturers by eliminating or reducing tariff and non-tariff barriers, and advance Whirlpool Corporation's U.S. exports of home appliances to Colombia. In addition, forging new and lasting relationships in the region will provide Whirlpool Corporation with an opportunity to remain competitive and achieve economies of scale in the Western Hemisphere. Healthy markets in Latin America will translate into greater development of infrastructure to facilitate the movement of product into the region.

WHIRLPOOL CORPORATION IS DISADVANTAGED COMPARED TO FOREIGN COMPETITORS

Currently, our U.S. exports to Colombia are disadvantaged by preferential arrangements within the hemisphere that foreign appliance manufacturers take advantage of by setting up operations in Mexico to export within Latin America. In particular, we have moved sourcing of

some products for the Colombian market from our facilities in the United States to facilities in Mexico. This was done to compete with competitors' products which are not subject to similar tariffs. **In the last four years U.S. exports have been losing share against other countries – In clothes washers from 28 percent to 14 percent and in large capacity refrigerators from 9 percent to 3 percent. The United States – Colombia Trade Promotion Agreement will allow Whirlpool Corporation to maintain U.S. jobs rather than relocate or expand operations in other Latin American locations to increase exports to the region because exports from the United States will become more competitive.**

Specifically, Whirlpool Corporation exports of refrigerators, freezers, clothes washers, dryers, dishwashers, microwave ovens, ovens and cook-tops will enter Colombia duty-free upon the agreement's entry into force, with a handful of products facing tariff phase-outs over five to ten years. **Tariffs in the range of 15-20 percent will be eliminated, which will level the playing field for U.S. exporters and save Whirlpool Corporation at least \$2.75 million dollars per year in duties not paid.** Colombian duties on appliances in 2010 were as follows:

HTS Code	Product	Colombian Duty Rate
7321.11.00	Stoves	20%
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors	20%
8418.21.00	Electrical refrigerators, household type, one door	20%
8418.30.00	Freezers of the chest type, not exceeding 800 liters capacity	20%
8418.40.00	Freezers of the upright type, not exceeding 900 liters capacity	20%
8418.69.90	Other ice making machines	15%
8422.11.00	Dishwashing machines of the household type	15%
8450.11.00	Washing machines fully-automatic of a dry linen capacity not exceeding 10 kg	15%
8450.20.00	Washing machines fully-automatic of a dry linen capacity more than 10 kg	15%
8450.12.00	Thin Twin	20%
8509.80.00	Trash Compactor	20%
8516.50.00	Microwave Ovens	5%
8516.60.20	Electrical Cooktops	20%
8516.60.10	Electrical Ovens	20%
8516.60.30	Warming Drawers	20%

COMBATING OF GRAY MARKETS

The desire by Colombians for U.S. product combined with the high tariffs on imported products has had the undesirable effect of stimulating the gray market for appliances shipped from Miami, Florida. Although Whirlpool Corporation has worked cooperatively with the U.S. and Colombian customs authorities to minimize the shipments, a free trade agreement would have an important effect on drying up this illegal trade. Nonetheless, Whirlpool Corporation has collaborated closely with the Colombian authorities to eradicate the gray market of appliances

in Colombia. In 1998, 70 percent of total units in Colombia were sold in the gray market. In 2001, this number declined to 20 percent after work with Colombian authorities and is almost zero today. We pre-report and identify planned shipments, ports of exit and entry and invoice value to make detection of diverted shipments much easier at Colombian customs. Whirlpool Corporation recognizes and applauds the Colombian Government's efforts in "Democratic Security" and Foreign Investment stimulation, which are essential for Whirlpool Corporation, in order to increase commercial activity in Colombia.

THE RULE OF LAW

The United States – Colombia Trade Promotion Agreement (CTPA) will strengthen protection and enforcement of U.S. trademarks, patents, and copyrights, creating new opportunities for U.S. innovation-based and creative industries in Peru. In specific terms, CTPA includes strong intellectual property enforcement mechanisms and penalty provisions, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The Agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit goods with specific provisions that are aimed at goods-in-transit.

In addition, U.S. direct investors in Colombia will benefit from the strong investment chapter in the Agreement, particularly the sections dealing with investment protections and dispute settlement. The Agreement enables binding third party arbitration for investor-state disputes not only for investments concluded after the Agreement goes into effect, but also for many types of investments that pre-date the Agreement.

The Agreement provides for rights that are consistent with U.S. law and also contains fully transparent dispute settlement procedures that are open to the public and allow interested parties to provide their input. As such, these trade agreements provide an opportunity for the partner countries to improve their investment climate by undertaking legal and judicial reforms, and resolving investment disputes (e.g., the criminalization of commercial disputes).

ADDITIONAL BENEFITS

The United States – Colombia Trade Promotion Agreement includes the following important provisions that create new market access opportunities and eliminate discriminatory practices for U.S. manufacturers:

- Non-discriminatory, national treatment in all aspects of our business
- Transparency and efficiency in administering customs procedures, including the agreement's rules of origin. Rules of origin are designed to provide clarity, predictability, and certainty to manufacturers.
- Enhanced commitments in distribution services such as wholesaling, retailing and franchising

- Greater protection for intellectual property rights (IPR). U.S. companies will enjoy equal protection to domestically domiciled companies.
 - criminalizing end-user piracy, providing strong deterrence against piracy and counterfeiting
 - limits the grounds for revoking a patent, thus protection against arbitrary revocation

Losing access to the U.S. market would mean losing millions of dollars in revenue and thousands of Colombian jobs. Without these jobs, many Colombian workers will be forced to find other employment opportunities in a country that has a very high unemployment rate and where nearly half of the population lives in poverty. However, the CTPA makes Colombia's favorable access to our markets permanent and provides additional benefits in the form of improved market functioning and enhanced economic growth. In other words, CTPA will provide continuity for the long-term U.S. policy goals of economic development and democratic consolidation in Colombia.

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Colombia, the CTPA will lend a helping hand to our close ally and will enhance U.S. efforts to strengthen democracy in the region. The embrace of democratic norms throughout the hemisphere over the past 25 years has been remarkable. But in some countries, poor economic policy and weak political parties, among other factors, have recently endangered this progress. The recent surge in populist victories, especially in South America, underscores the fact that democratic elections do not guarantee the rule of law.

While questions of the rule of law in the region may legitimately be addressed in a number of ways, we believe that the promulgation of ambitious and comprehensive free trade agreements would do more to enhance the rule of law and transparent governance in the region than any other possible step by the United States. While the commercial benefits are substantial, they go beyond just opening overseas markets for America's workers, farmers and companies. These agreements assist in the creation of a transparent, rules-based economic environment, which is a critical element in the success of democratic institutions and market-based economic policies.

Like much of Latin America, the Andean region is struggling against corruption, which undermines growth, security, and stability. CTPA contains critical provisions to enhance transparency and accountability in governance, providing the countries with important tools to fight the scourge of corruption. As an example, the Agreement provides for the criminalization of bribery in government procurement, providing for more efficient procurement and a more competitive marketplace.

CTPA also promotes U.S. security interests by forging a deeper partnership with Colombia through a framework for government-to-government relationships that is grounded in the tangible national interests of all parties. Such a framework is vital to enhancing cooperation in the fight against terrorism and narcotics trafficking; it also sets an example for other countries around the world as we pursue our global security goals. By promoting

economic growth in Colombia, the CTPA will help stabilize its economy and provide its citizens with long-term alternatives to narcotics trafficking or illegal immigration.

CONCLUSION

We appreciate this opportunity to share our strong support for the United States – Colombia Trade Promotion Agreement. Whirlpool Corporation believes that trade expansion is an essential ingredient in any recipe for economic success in the 21st century, and this agreement is an excellent model in this regard. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as this one are critical. U.S. business is more than capable of competing in the global marketplace when trade barriers are removed and markets are open. The United States – Colombia Trade Promotion Agreement is good for Whirlpool Corporation and other U.S. manufacturers, and it will promote economic growth and prosperity in both the United States and Colombia. In short, we are confident that, if this trade agreement is passed, Whirlpool jobs in the United States will be preserved and grow as we increase our exports to Colombia, and Colombian consumers are better able to afford the products our workers make. We urge the Congress to move quickly to pass this agreement to ensure strengthened export opportunities for U.S. manufacturers.

Mr. Chairman and members of the subcommittee, thanks again for the opportunity to submit this testimony.

Sean Mackay

Whirlpool Corporation

701 Pennsylvania Ave NW

Suite 750

Washington, D.C. 20004

(202) 639 – 9420

Sean_mackay@whirlpool.com

March 17, 2011 Hearing on the Pending Trade Agreement with Colombia